

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caroline Moses	Team: Squad #13	CCRB Case #: 201902281	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/13/2019 10:36 PM	Location of Incident: Metropolitan Avenue G-line subway station, Transit Bureau Brooklyn Task Force stationhouse.	Precinct: 90	18 Mo. SOL 9/13/2020	EO SOL 4/30/2021	
Date/Time CV Reported Thu, 03/14/2019 4:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 03/14/2019 4:27 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nelson Guillaume	27615	941866	TB BKTF

Officer(s)	Allegation	Investigator Recommendation
A.POM Nelson Guillaume	Abuse: Inside the Metropolitan Avenue G-line subway station in Brooklyn, Police Officer Nelson Guillaume threatened to arrest § 87(2)(b)	
B.POM Nelson Guillaume	Abuse: Inside the Metropolitan Avenue G-line subway station in Brooklyn, Police Officer Nelson Guillaume threatened § 87(2)(b) with the use of force.	
C.POM Nelson Guillaume	Abuse: At the Transit Bureau Brooklyn Task Force stationhouse, Police Officer Nelson Guillaume refused to provide his name to § 87(2)(b)	

Case Summary

On March 14, 2019, § 87(2)(b) filed this complaint on the CCRB's website.

On March 13, 2019, at 10:36 p.m., § 87(2)(b) and his girlfriend § 87(2)(b) were stopped for fare evasion by Police Officer Nelson Guillaume of the Transit Brooklyn Task Force inside the Metropolitan Avenue G-line subway station in Brooklyn. PO Guillaume threatened to arrest § 87(2)(b) (**Allegation A: Abuse of authority**, § 87(2)(g)). PO Guillaume also stated that he could "drag § 87(2)(b) into the precinct if [he] had to" (**Allegation B: Abuse of authority**, § 87(2)(g)). PO Guillaume escorted § 87(2)(b) and § 87(2)(b) to the Transit Brooklyn Task Force stationhouse, located inside the subway station, to issue the summons. PO Guillaume refused to provide § 87(2)(b) with his name (**Allegation C – Abuse of authority**, § 87(2)(g)).

There is no video evidence of this incident. The Office of Court Administration (OCA) has no record of the summonses issued in relation to this incident (Board Review 13).

Findings and Recommendations

Allegation (A) Abuse of Authority: Inside the Metropolitan Avenue G-line subway station in Brooklyn, Police Officer Nelson Guillaume threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) both entered the subway station through a single turn of the turnstile, and that PO Guillaume stopped them and ordered them to provide identification. § 87(2)(b) provided her identification immediately and without complaint. § 87(2)(b) asked why he was being asked for identification, as he had used his MetroCard. PO Guillaume said that because they had both entered, each had only paid half the fare and therefore both had committed theft of service. After PO Guillaume asked § 87(2)(b) multiple times for his identification, PO Guillaume told § 87(2)(b) that he could be arrested if he did not provide his identification.

§ 87(2)(b) (Board Review 01) and § 87(2)(b) (Board Review 02) both said that PO Guillaume said that § 87(2)(b) could be arrested after PO Guillaume asked twice for § 87(2)(b)'s identification and § 87(2)(b) failed to provide it. § 87(2)(b) said that PO Guillaume told him that he did not ordinarily issue summonses for "doubling up" in the turnstile, but that he was going to issue them both a summons and that they would need to go to the stationhouse because § 87(2)(b) was "playing games."

PO Guillaume said in his statement that he explained that § 87(2)(b) could be arrested every time that he refused PO Guillaume's request for identification (Board Review 03). PO Guillaume told § 87(2)(b) multiple times that he could be arrested for the theft of service if he did not provide his identification, but denied that this was a threat.

According to New York Codes, Rules, and Regulations, section 1050.4(a) (Board Review 04), "no person shall, for purposes of gaining entry into a facility, proceed over or under any turnstile or otherwise proceed in any other unauthorized manner through an exit gate or through or past any point at which a fare is required or collected." People v. Lang (2007) (Board Review 05) states that if someone can be said to be allowing or aiding someone to enter the turnstile of the subway with them, this person is liable for being charged with theft of service just the same as the

person who did not swipe the farecard, pursuant to NYS Penal Code § 20.00 regarding criminal liability (Board Review 06). NYPD Patrol Guide, Procedure 209-39 (Board Review 07) states that arrests for theft of service can be made if the subject is unable to be properly identified.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Inside the Metropolitan Avenue G-line subway station in Brooklyn, Police Officer Nelson Guillaume threatened § 87(2)(b) with the use of force.

§ 87(2)(b) and § 87(2)(b) both said in their CCRB statements that PO Guillaume said both that he could “throw § 87(2)(b) in jail” and that he could “drag § 87(2)(b) to the precinct.”

PO Guillaume denied saying that he could “drag § 87(2)(b) to the precinct” and denied making any other threats of physical force against § 87(2)(b)

§ 87(2)(g)

Allegation (C) Abuse of Authority: At the Transit Bureau Brooklyn Task Force stationhouse, Police Officer Nelson Guillaume refused to provide his name to § 87(2)(b)

It is undisputed that after § 87(2)(b) eventually provided his identification, PO Guillaume told § 87(2)(b) and § 87(2)(b) that they were being detained and that they needed to come with PO Guillaume to the Transit Bureau Kings stationhouse located inside the subway station. § 87(2)(b) and § 87(2)(b) went with PO Guillaume to the stationhouse and sat in the waiting area while PO Guillaume conducted warrant checks, which were negative. PO Guillaume then issued § 87(2)(b) and § 87(2)(b) summonses for theft of service and told them they were free to leave. § 87(2)(b) and § 87(2)(b) left the stationhouse and re-entered the subway.

§ 87(2)(b) said that while at the stationhouse, he asked PO Guillaume multiple times for his name, and that PO Guillaume told him that it would be on the summons but refused to provide it verbally. The summonses issued to § 87(2)(b) and § 87(2)(b) each contain an illegible signature (Board Review 08).

PO Guillaume said that in addition to writing his name on the summons, he provided his name and shield number multiple times in response to each of § 87(2)(b)'s multiple requests. PO Guillaume said that § 87(2)(b) repeated his request even after PO Guillaume had already provided the information, and that he provided the information multiple times in response to § 87(2)(b)'s requests. While the summons does not show PO Guillaume's name, there is no independent evidence to conclude whether or not PO Guillaume provided his name verbally.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 09).
- PO Guillaume has been a member of service for 13 years, and has been a subject of two prior CCRB cases comprised of four allegations, none of which were substantiated (Board Review 10).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the OCA, § 87(2)(b) has no criminal convictions in New York City (Board Review 11).
- As of August 20, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 12).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date